IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 223 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAJBAI MEHBOOB KHAN MALEK

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for Petitioner

MR BY MANKAD, APP for Respondent No. 1

MR NIGAM SHUKLA for Respondent No. 2

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 27/11/2000

ORAL JUDGEMENT

Rule. Service of rule is waived by Shri B.Y.Mankad, learned APP for the Opponent No.1-State and Shri Nigam Shukla, learned advocate for the Opponent No.2. At the request of the learned advocates for both the parties, this application is taken up for final hearing.

2. The learned advocates for both the parties jointly submitted that this application be disposed of by giving suitable directions to the Special Court constituted under the NDPS Act.

3. Mr.E.E.Saiyed, learned advocate for the petitioner seeks permission to withdraw this application

with his prayer for liberty to lead evidence for the facts stated in Criminal Inquiry No.20/2000 which was pending on the file of the learned JMFC, First Court, Ahmedabad (Rural) at Mirzapur.

4. Having heard the learned advocates for both the parties and on going through the impugned order and on going through the grounds stated in memo of this application, this Court deems fit necessary to pass following order:

Accused-MehboobKhan Malek of C.R.No.Prohi. 5002/2000 of DCB Crime Branch Police Station, Ahmedabad City, husband of Criminal Inquiry No.20/2000, is permitted to lead evidence in his defence by examining his wife i.e. complainant of aforesaid Criminal Inquiry No.20/2000 and other witnesses as may be cited by accused with further liberty to the prosecution to cross-examine that witnesses and the learned Judge of the Special Court will decide the NDPS case before him strictly on merits, after appreciation of evidence which may be led by accused in his defence pursuant to this order, without being influenced by the fact that private complaint bearing Criminal Inquiry No.20/2000 filed by wife of the accused has been dismissed under Sec.203 of Cr.P.C. on 12th May, 2000.

With the aforesaid directions and liberty to accused as well as prosecution, this Criminal Revision Application stands disposed of. Rule is discharged to that extent.

(H.H. Mehta, J.)

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